

§ 409.12

admitted to the hospital or CAH, respectively, for treatment of a condition that required immediate inpatient hospital or inpatient CAH care, and have been so occupied during the interval.

(2) *Period of payment.* In the situations specified in paragraph (b)(1) (i) and (iii) of this section, Medicare pays for a private room until the patient's condition no longer requires isolation or until semiprivate or ward accommodations are available.

(3) *Conditions for patient's liability.* The hospital or CAH may charge the patient the difference between its customary charge for the private room and its most prevalent charge for a semiprivate room if—

- (i) None of the conditions of paragraph (b)(1) of this section is met; and
- (ii) The private room was requested by the patient or a member of the family, who, at the time of the request, was informed what the hospital's or CAH's charge would be.

[48 FR 12541, Mar. 25, 1983, as amended at 58 FR 30666, May 26, 1993]

§ 409.12 Nursing and related services, medical social services; use of hospital or CAH facilities.

(a) Except as provided in paragraph (b) of this section, Medicare pays for nursing and related services, use of hospital or CAH facilities, and medical social services as inpatient hospital or inpatient CAH services only if those services are ordinarily furnished by the hospital or CAH, respectively, for the care and treatment of inpatients.

(b) *Exception.* Medicare does not pay for the services of a private duty nurse or attendant. An individual is not considered to be a private duty nurse or attendant if he or she is a hospital or CAH employee at the time the services are furnished.

[48 FR 12541, Mar. 25, 1983, as amended at 50 FR 33033, Aug. 16, 1985; 58 FR 30666, 30667, May 26, 1993]

§ 409.13 Drugs and biologicals.

(a) Except as specified in paragraph (b) of this section, Medicare pays for drugs and biologicals as inpatient hospital or inpatient CAH services only if—

- (1) They represent a cost to the hospital or CAH;

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(2) They are ordinarily furnished by the hospital or CAH for the care and treatment of inpatients; and

(3) They are furnished to an inpatient for use in the hospital or CAH.

(b) *Exception.* Medicare pays for a limited supply of drugs for use outside the hospital or CAH if it is medically necessary to facilitate the beneficiary's departure from the hospital and required until he or she can obtain a continuing supply.

[48 FR 12541, Mar. 25, 1983, as amended at 58 FR 30666, May 26, 1993]

§ 409.14 Supplies, appliances, and equipment.

(a) Except as specified in paragraph (b) of this section, Medicare pays for supplies, appliances, and equipment as inpatient hospital or inpatient CAH services only if—

- (1) They are ordinarily furnished by the hospital or CAH to inpatients; and
- (2) They are furnished to inpatients for use in the hospital or CAH.

(b) *Exceptions.* Medicare pays for items to be used beyond the hospital or CAH stay if—

- (1) The item is one that the beneficiary must continue to use after he or she leaves the hospital or CAH, for example, heart valves or a heart pacemaker, or

(2) The item is medically necessary to permit or facilitate the beneficiary's departure from the hospital or CAH and is required until the beneficiary can obtain a continuing supply. Tracheostomy or draining tubes are examples.

[48 FR 12541, Mar. 25, 1983, as amended at 58 FR 30666, May 26, 1993]

§ 409.15 Services furnished by an intern or a resident-in-training.

Medical or surgical services provided by an intern or a resident-in-training are included as "inpatient hospital or inpatient CAH services" if they are provided—

- (a) By an intern or a resident-in-training under a teaching program approved by the Council on Medical Education of the American Medical Association, or the Bureau of Professional Education of the American Osteopathic Association;

(b) By an intern or a resident-in-training in the field of dentistry under a teaching program approved by the Council on Dental Education of the American Dental Association; or

(c) By an intern or a resident-in-training in the field of podiatry under a teaching program approved by the Council on Podiatry Education of the American Podiatry Association.

[48 FR 12541, Mar. 25, 1983, as amended at 58 FR 30666, May 26, 1993]

§ 409.16 Other diagnostic or therapeutic services.

Diagnostic or therapeutic services other than those provided for in §§ 409.12, 409.13, and 409.14 are considered as inpatient hospital or inpatient CAH services if—

(a) They are furnished by the hospital or CAH, or by others under arrangements made by the hospital or CAH;

(b) Billing for those services is through the hospital or CAH; and

(c) The services are of a kind ordinarily furnished to inpatients either by the hospital or CAH or under arrangements made by the hospital or CAH.

[48 FR 12541, Mar. 25, 1983, as amended at 58 FR 30666, May 26, 1993]

§ 409.18 Services related to kidney transplantations.

(a) *Kidney transplants.* Medicare pays for kidney transplantation surgery only if performed in a renal transplantation center approved under subpart U of part 405 of this chapter.

(b) *Services in connection with kidney donations.* Medicare pays for services related to the evaluation or preparation of a potential or actual donor, to the donation of the kidney, or to post-operative recovery services directly related to the kidney donation—

(1) If the kidney is intended for an individual who has ESRD and is entitled to Medicare benefits or can be expected to become so entitled within a reasonable time; and

(2) Regardless of whether the donor is entitled to Medicare.

§ 409.19 Services related to cardiac pacemakers and pacemaker leads.

(a) *Requirement.* (1) Providers that request or receive Medicare payment for

the implantation, removal, or replacement of permanent cardiac pacemakers and pacemaker leads must submit to HCFA the information required for the pacemaker registry.

(2) The required information is set forth under 21 CFR part 805 of the FDA regulations and must be submitted in accordance with general instructions issued by HCFA.

(b) *Denial of payment.* If HCFA finds that a provider has failed to comply with paragraph (a) of this section, HCFA denies payment for the implantation, removal, or replacement of any permanent cardiac pacemaker or pacemaker lead, effective 45 days after sending the provider written notice in accordance with paragraph (c) of this section.

(c) *Notice of denial of payment.* The notice of denial of payment—

(1) States the reasons for the determination;

(2) Grants the provider 45 days from the date of the notice to submit the information or evidence showing that the determination is in error; and

(3) Informs the provider of its right to hearing.

(d) *Right to hearing.* If the denial of payment determination goes into effect at the expiration of the 45-day period, it constitutes an “initial determination” subject to administrative and judicial review under part 498 of this chapter.

[56 FR 8840, Mar. 1, 1991; 56 FR 23022, May 20, 1991]

Subpart C—Posthospital SNF Care

§ 409.20 Coverage of services.

(a) *Included services.* Subject to the conditions and limitations set forth in this subpart and subpart D of this part, “posthospital SNF care” means the following services furnished to an inpatient of a participating SNF, or of a participating hospital or critical access hospital (CAH) that has a swing-bed approval:

(1) Nursing care provided by or under the supervision of a registered professional nurse.

(2) Bed and board in connection with the furnishing of that nursing care.

(3) Physical, occupational, or speech therapy.